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Security Council

Sixty-fifth year

Provisional

6434th meeting

Monday, 6 December 2010, 10 a.m.

New York

President:	Ms. Anderson	(United States of America)
Members:	Austria	Mr. Mayr-Harting
	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mrs. Viotti
	China	Ms. Guo Xiaomei
	France	Mr. Briens
	Gabon	Mr. Issoze-Ngondet
	Japan	Mr. Sumi
	Lebanon	Ms. Ziade
	Mexico	Mr. Heller
	Nigeria	Mrs. Ogwu
	Russian Federation	Mr. Pankin
	Turkey	Mr. Apakan
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 1 November 2010 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2010/588)

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Letter dated 5 November 2010 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2010/574)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President: I have received letters from the representatives of Croatia, Rwanda and Serbia, requesting to participate in this meeting. I propose to invite those representatives to participate in this meeting without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: On behalf of the Security Council, I extend invitations under rule 39 of the Council's provisional rules of procedure to Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia; Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

I wish to draw the attention of Council members to the following documents: S/2010/413, containing the annual report of the International Tribunal for the Former Yugoslavia; S/2010/588, containing a letter dated 1 November 2010 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council; S/2010/408, containing the annual report of the International Tribunal for Rwanda; and S/2010/574, containing a letter dated 5 November 2010 from the President of the International Tribunal for Rwanda addressed to the President of the Security Council.

I now give the floor to Judge Patrick Robinson.

Judge Robinson: It is an honour for me to appear before the Security Council today in my capacity as President of the International Criminal Tribunal for the Former Yugoslavia, and particularly to do so under the presidency of the United States. I would also like to express my sincere appreciation for the support shown for the work of the Tribunal by the outgoing members of the Security Council: Austria, Japan, Mexico, Turkey and Uganda. In particular, the Tribunal is grateful to Austria, as Chair of the Security Council Informal Working Group on International Tribunals, for the substantial progress that has been in the development of a residual mechanism.

My remarks today will be brief, as the details of the measures that the Tribunal has undertaken to complete its mandate are set out in the written biannual report, which has been duly submitted to the Security Council (S/2010/588).

At the close of the reporting period, 13 persons were in appeal proceedings and 18 persons were on trial. Two accused, Ratko Mladić and Goran Hadžić, remain at-large. To date, we have concluded proceedings against 125 of the 161 persons indicted by

the Tribunal. During the reporting period, the Tribunal conducted proceedings in 10 trials concurrently by doubling-up judges and staff so that they were working on more than one case at a time. The second of the Tribunal's three multi-accused trials, *Prosecutor v. Popović et al.*, was brought to a close. *Đorđević*, *Gotovina et al.*, *Perišić* and the *Haradinaj* partial retrial will conclude in 2011. Five trials — *Prlić et al.*, *Šešelj*, *Stanišić and Simatović*, *Stanišić and Župljanin*, and *Tolimir* — are anticipated to conclude in 2012. The final case — that of *Karadžić* — should be completed at the end of 2013.

Two appeal judgements were rendered, and appeals from three trial judgements are currently pending before the Appeals Chamber. All appeals are still scheduled to be completed by the end of 2014, although the recent, unavoidable delays in the *Karadžić* case suggest that this date will have to be reassessed at an appropriate time. The judges of the Appeals Chamber also continued to work at maximum capacity on appeals from the International Criminal Tribunal for Rwanda.

The Tribunal continues to take all measures possible to expedite its trials, without sacrificing due process. In this regard, I must tell the Council that the judges have reported feeling extreme pressure to expedite the work of the Tribunal. I must also say that this troubles me because judges are entitled to work in an environment free from all external pressures so that their independence is not compromised or does not appear to be compromised.

Despite Herculean efforts to expedite our proceedings, some estimates from the last reporting period have had to be amended. Although the trial schedule is estimated by reference to factors that are within the Tribunal's control, there are important influences upon the schedule that are not within our control, such as witness intimidation, the failure of witnesses to appear, the illness of accused, the death of defence counsel, the complexities associated with self-represented accused, the discovery of new evidence, and perennial staff attrition.

On the issue of our debilitating staff attrition, I would like to sincerely thank the Security Council for responding to the pleas of the Tribunal for assistance by adopting resolution 1931 (2010) in June, which noted the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar to find practicable solutions to address this issue as the Tribunal draws to a close. But that resolution must be translated into action, and unfortunately it has not. The confusion that started with General Assembly Resolution 63/256 not being implemented due to budgetary constraints continues.

Most recently, in June 2010, the Staff-Management Coordination Committee — a body comprised of the Office of Human Resource Management (OHRM), staff unions and United Nations administrators — made two recommendations regarding the Tribunals, which were approved by the Deputy Secretary-General on behalf of the Secretary-General. One of those recommendations was that our staff be given two-year fixed-term appointments, subject to another extension of two years. Following consultation at New York Headquarters in October, OHRM clarified that it was fully within the authority of the Registrar to issue contracts to staff for a period of two years, regardless of approved budgetary funds — a position contrary to its view that General Assembly resolution 63/256 only authorizes contracts in conformity with approved budgetary funds.

OHRM also told us that the purpose of the Staff-Management Coordination Committee's recommendation was to provide an incentive to staff by way of an indemnity payment if and when contracts were terminated prior to expiration. But it was OHRM's position that such indemnity had to be covered by the Tribunal's existing resources and that no request for additional funding to cover indemnity payments could be made. And herein lies the problem. The Tribunal does not have the resources, nor can it find them, to implement resolution 63/256. Again, the Tribunal is offered a measure that on its face seems to provide a way of stemming the rapid tide of staff attrition, but in reality is entirely meaningless.

Moreover, the second recommendation of the Staff-Management Coordination Committee has also been rendered meaningless. This recommendation was that Tribunal staff be given priority in consideration of eligibility for conversion to permanent contracts. However, OHRM has advised that no such priority will be given. Indeed, it has referred all recommendations for permanent contracts by the Tribunal to a central review board on the basis that it did not agree with any of them. OHRM has made no secret of the fact that the recommendations are likely to languish with the review

board for some time. I have to say that, somewhat surprisingly, the Secretary-General's bulletin on the consideration of permanent contracts provides for no such review procedure.

Turning to other matters, I would like to bring to the Council's attention again the need to compensate the victims of the armed conflicts in the former Yugoslavia. In order to build a lasting peace, justice must not only be retributive; it must also be restorative. The International Criminal Court and the 114 States that have ratified the Rome Statute accept the importance of compensation to victims of war crimes, crimes against humanity and genocide, and the United Nations must do the same. I therefore call upon the Council to support the establishment of a victims' trust fund in order to complement the Tribunal's criminal trials by providing victims with the necessary resources to rebuild their lives.

In making this proposal, the Tribunal is extremely sensitive to the financial difficulties being experienced by Member States, and it has not escaped our notice that, lately, the importance of the concept of justice has come under fire. But it is precisely in difficult times that we must be the most vigilant in safeguarding the role of justice in our society. We must not lose sight of the reason why the Security Council created the Tribunal in the first place. It was the German philosopher Immanuel Kant who posed the issue in the starkest of terms, stating that the greatest problem for the human species is that of attaining a civil society that can administer universal justice.

Although Kant said those words over 200 years ago, we are engaged in the same struggle today. Courts are vulnerable institutions because they are dependent upon other governmental entities for their very existence. What ultimately safeguards the ability of courts to function is the consensus of the community that justice is a quality worth protecting in its purest form. In carrying out that function, every staff member of the Tribunal is committed to playing his or her part to the very best of his or her ability. It is simply wonderful to witness the United Nations working as a family to put into practice the ideal of justice upon which the United Nations was founded.

I travel to New York twice a year to give the Council an assessment of the progress of our work, but it really is a shame that the members of the Security Council do not have the opportunity to see the Tribunal that I see when I arrive at work in the morning. When I enter the Tribunal in the early hours of the morning, I pass a security officer from the United States reverently raising the United Nations flag. I say hello to a financial analyst from China who is working on our next budget submission to the General Assembly. I walk past a prosecutor from the United Kingdom nervously practicing her oral argument outside the courtroom. Inside the courtroom, a defence counsel from France is consulting with her client before the hearing begins. As I near the corridor of the judges, I peek in on a legal officer from Russia working hard to complete a judgement that is to be rendered soon.

I see faces of the young and the old, men and women, people from the East and from the West. Despite their differences, they are all interconnected by a common thread — they are all ministers of justice. Theirs are the varied faces of the Tribunal that few ever get to see. They all came to the Tribunal because they wanted to be a part of the bold new era ushered in by the Security Council in May 1993. They came to the Tribunal to work in a place where they could use their skills to build a more just world where the guilty are punished, the innocent go free and the victims have their day in court. In short, they wanted to help fashion a world where each person gets what he or she deserves. That is the very character of justice.

If those staff members are the ministers of justice, then the members of the Security Council are the architects of that justice, for it is the Council members who created the Tribunal in order to stamp out impunity and bring justice to the former Yugoslavia. This brings me to the question of why justice matters. Justice matters because, in a world without justice, right would be determined by might and the weak would be at the mercy of the strong. None of us would want to live in a world where people did not get what they deserve but what they were able to take. All of our lives would be much darker without the light of justice to guide us on our way.

We at the Tribunal are fully aware of its ad hoc and temporary status. I know I speak for all of us at the Tribunal when I say that, no matter what we do in our future professional lives, we will always look back with nostalgia tinged with gratitude and pride at our tenure with the Tribunal as a time when we were able to make a modest difference in the world; as a time when we were privileged to be a positive force in the universe. But our work is not finished yet. Those of us

at the Tribunal who go to work each day and who have faithfully remained at our posts desperately need our parent, the Security Council, to stand by us until we complete the work that the Council started back in 1993. We need the Council to stand by us as we implement its vision of a world that is ruled not by might, but by right.

I promise that future generations will not look back at the work of the Security Council and the Tribunal and wonder why the completion of a particular trial was delayed. Rather, our children and grandchildren will admire the members of the Security Council, the Tribunal and indeed the United Nations as a whole for our willingness to be bold, to change the world, to transform it into a safer and more just place to live, and to achieve our greatest potential as human beings. What will be remembered is the justice that was achieved and the courage of those who were willing to do what was necessary to make justice a living and breathing reality.

The President: I thank Judge Robinson for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I would like to begin by congratulating the representative of the United States on her country's presidency of the Security Council for the month of December. I wish her all the best for a successful tour of duty.

I am pleased to present to the members of the Security Council the fourteenth completion strategy report of the International Criminal Tribunal for Rwanda (see S/2010/574). I would like to express the gratitude of the entire Tribunal to the Governments represented here and to the Secretariat for their continued trust and support on all levels over the past six months. I would also like to say a special word of appreciation to the Permanent Representative of Austria for his important work during the past two years as Chair of the Informal Working Group on International Tribunals. It would be beneficial if that work soon led to an agreement on the structure and location of the residual mechanism to facilitate a smooth transition process.

Since my last report in June (6342nd meeting) the Tribunal has rendered five trial and two appeals judgements. The number of remaining judgements to be delivered at the trial level is now down to 10. We expect judgements in four trials, with respect to 15 accused, in the first half of 2011. We aim to deliver the remaining six judgments, with respect to seven accused, before the end of 2011.

We have recently requested authorization for three judges, whose terms of office has not been extended, to be allowed to complete their assignments, which will spill over into early 2011. I ask for the Council's support in approving the short extension of those judges in order that they may complete their judgements.

Four trials are currently ongoing, and we expect evidence to be completed in the first quarter of next year. In January 2011, the last new trial under current projections will begin. As additional judicial workload, we also anticipate one or more proceedings for contempt of court and the hearings for preservation of evidence in the cases of three fugitives under new rule 71 bis.

Council members may have read that the Prosecutor has recently submitted three requests for transfers of cases to Rwanda for trial — one in the case of Jean Uwinkindi, who is in pretrial detention in Arusha, and the other two in cases of fugitives. Last week, I assigned the benches to rule on those requests. The outcome of that judicial procedure will impact upon the completion date for our trial work. I would like to use this occasion to call on Security Council members to consider accepting referral cases under their home jurisdiction, as Rwanda is willing to do.

Of course, given the unpredictability of certain factors, the judicial calendar can only provide estimates of expected judgement delivery dates. For example, it is difficult to foresee when fair trial requirements may necessitate provision of additional time to the parties. Nevertheless, we believe, based on the current workload, that our goal of completing the first instance trials within the next year can be achieved, with a small caveat for the new trial, which will commence only in January and for which the goal of completion by December might seem ambitious.

The target date of the end 2011 means, for the appeals, that we maintain the goal of completion by the end of 2013. However, depending upon the staffing situation — which I will address shortly — we cannot exclude further delays in judgement delivery.

As evidenced by the graphs presented in the completion strategy report (S/2010/574), our trial management initiatives have resulted in more expeditious trials and pre-trial over the last years, while upholding the highest standards of fair trial rights. However, those advances cannot be maintained if the pressing staff retention issue is not addressed.

I want to highlight to this Council yet again the very difficult staffing situation at the Tribunal and the fact that that if left unaddressed the problem will lead to significant additional delays. In 2010, Tribunal lost almost 100 staff members. For Chambers alone, the number is 19, which is a high percentage of our staffing level.

In order to stem the tide of departures and to facilitate new recruitments, the Organization must continue to be innovative in administering the Staff Rules. We cannot ignore that the circumstances of a downsizing institution are specific, and that creates particular challenges. The Tribunal's human resources should not be treated like any standard staffing situation in a permanent United Nations agency. For example, rules such as the compulsory six-month break for former consultants before a new appointment can impact significantly on our ability to meet the judgement delivery deadlines if they prevent the speedy recruitment of experienced candidates, in particular of former staff members.

After mine and President Robinson's speeches in June, the Council adopted two resolutions (1931 (2010) and 1932 (2010)), which noted the importance of the Tribunals being adequately staffed and called upon the Secretariat to work with the Registrars of the Tribunals to find practicable solutions to address that issue.

The resolutions also urged the Tribunals, once more, to complete their work expeditiously. We are indeed doing everything possible to complete our work without undue delay. However, as staff continue to leave at an alarming rate and our recruitment efforts face significant obstacles, further delays in judgement delivery are inevitable. We call upon Member States to recognize the unique circumstances of a downsizing institution such as ours and to encourage the responsible bodies of the Organization to be flexible in the application of the Staff Rules while preserving their principles.

With respect to the terms and conditions of service of the ad litem judges, I thank the members of the Council and the General Assembly for their consideration of the Secretary-General's recommendations. The ad litem judges have made and continue to make a significant contribution to the work of the Tribunal. In the interests of the completion strategy, I trust that the General Assembly will acknowledge that contribution in an appropriate way.

I turn now to another important point: the issue of State cooperation.

I intend to render decisions on the transfer of four convicts to a Member State for the enforcement of their sentences within the next weeks, and I would like to thank all States that have concluded agreements with the Tribunal to receive convicts for their cooperation. Only two weeks ago, the Tribunal signed an additional agreement with Senegal.

Despite significant efforts by the Registrar, three acquitted persons have still not been resettled and remain in safe houses in Arusha. As I stated in my last speech, for one of them, Andre Ntagerura, it has now been four years since the confirmation of his acquittal by the Appeals Chamber.

Additionally, the issue of the relocation of convicted persons who have served their sentences needs urgent attention. Those persons are in a legal vacuum, as we can currently see in at least one of those cases. There will be many persons in that position in the coming years. If the problem is not dealt with through a comprehensive, long-term approach, the interests of justice and the rule of law will not be served. That is especially true as the problem will also affect the International Criminal Court in the future. The Tribunal therefore calls upon the international community to urgently commence a review process to develop a lasting mechanism for dealing with that problem.

Ten fugitives still remain at large. The last arrest of a fugitive was made over five months ago. The Tribunal depends on the cooperation of Member States for the tracking, arrest and transfer of fugitives. Following resolution 1932 (2010), which called on States, especially those in the Great Lakes region, to cooperate to bring indictees of the Tribunal to justice, Kenya recently met with representatives of the Tribunal. I am sure the Prosecutor will provide you with a more comprehensive briefing on that matter.

I want to thank the Council for the commitment and support it has shown the Tribunal and to me personally over the last years. As a citizen of a small nation — Saint Kitts and Nevis — it is a special honour for me and my country to serve the international community.

The International Tribunals the Council created in 1994 established international criminal justice as an essential tool in challenging impunity for the most horrendous crimes. We should not forget, in our focus on the completion strategy, the significant contribution the Tribunals have made to international law and to the acceptance of justice as an indispensable element of international peace and stability. As our Tribunal, in its current form, draws to a close, we should all redouble our efforts to ensure its lasting legacy as a beacon for international justice.

The President: I thank Judge Byron for his briefing. I now give the floor to Mr. Serge Brammertz.

Mr. Brammertz: Once again, it is my duty and pleasure to address the Security Council on the progress of the Office of the Prosecutor towards the completion of the Tribunal's mandate. We have our eyes firmly fixed on the completion of our activities. Our challenge is to finalize our work expeditiously while at the same time preserving the integrity of our proceedings and the overall interests of justice. Everyone present today has a common interest in striking the right balance between those two important objectives.

I am conscious of the fact that the original deadline for completion of the Tribunal's work — the end of 2010 — will pass us by while we are still occupied with multiple trials and appeals. As we have explained in our completion strategy reports over the years, culminating in our present report (see S/2010/588), there are many reasons for that. International criminal justice is a complex and unpredictable endeavour. Nevertheless, I take responsibility for the delays that can be attributed to the Office of the Prosecutor.

We assure the Council that we are continuously reflecting on our performance and devising strategies to further improve the efficiency of our work. We understand that the international community has finite resources and many competing priorities. We reiterate our commitment to ensuring that the international community's investment in justice and accountability in the former Yugoslavia pays maximum dividends within an acceptable time frame.

In my remarks today, I will emphasize our Office's top four current priorities.

First, we are focused on the successful and efficient completion of our trials and appeals. The Council has a large volume of information on the progress of the Tribunal's cases before it in the reports submitted by the President (ibid., annex I) and by our Office (ibid., annex II). We are moving ahead, and several milestones were reached in the current reporting period. Two trials and one appeal case were concluded. Two other trials reached their final stage and are scheduled for completion early next year, and the Prosecution concluded the presentation of its evidence in two further trials. Another case, *Haradinaj et al*, has been remitted for a partial retrial. To cope with the extra work, we have had to stretch thinner the existing resources in our Office and use them in a more flexible way.

Our Office is working at maximum capacity. The increasingly frequent rates of staff departures, particularly in the critical final phase of our cases, means that we must ask more and more of those who remain. The dedication of staff in our Office is notable, and through their efforts we have been able to proceed with our cases as required.

The second priority I want to mention today is securing the cooperation of States.

When it comes to Serbia, cooperation in our ongoing cases is proceeding well. Serbia is facilitating our requests for access to documents and archives, and witness related issues are being handled satisfactorily.

However, Serbia's failure to capture the two remaining fugitives — Ratko Mladić and Goran Hadžić — is one of our foremost concerns. Serbia must bridge the gap between its stated commitment to the arrests and the effectiveness of its operations on the ground. Time is passing, and we are not seeing results. In our last completion strategy report (S/2010/270), we made a number of recommendations aimed at improving the effectiveness of Serbia's efforts to capture the fugitives. In my trip to Serbia this past November, I saw that the authorities are working on the implementation of our recommendations. But there is still much left to be done, and the progress must be faster.

Overall, Serbia needs to adopt a more proactive approach to arresting the fugitives. At the heart of that more proactive approach should be a comprehensive strategy that integrates all relevant actors and covers all possible angles for exerting positive pressure towards the arrests. For example, in addition to the search activities, there must be a rigorous approach to dealing with individuals or networks that support the fugitives in their efforts to evade justice. The Serbian authorities must clearly signal that those who harbour the fugitives will be punished. Serbia holds the key to arresting Ratko Mladić and Goran Hadžić. Those fugitives can be brought to justice if all relevant actors are sufficiently committed and effectively work together to bring it about.

When it comes to Croatia, the authorities are generally responsive to our requests for assistance. The key outstanding issue remains our request for important military documents relating to Operation Storm. The task force established by the Government to locate or account for the missing military documents has now started working on exploring new investigative avenues identified by my Office more than one year ago. However, the reports sent to our Office by the authorities reveal inconsistencies and raise questions that have not been resolved. After I submitted my written report to the Council, the authorities sent an additional report to our Office identifying a number of the problematic areas. We encourage Croatia to address those problems and to account for the missing documents.

When it comes to Bosnia and Herzegovina, again we have seen satisfactory responses to our requests for assistance. However, we ask the authorities to redouble their efforts against fugitive networks. We continue to support the full implementation of the Bosnia and Herzegovina National War Crimes Strategy. While an important development, we encourage courts dealing with war crimes cases at all levels of the judicial system to further improve their working relationships.

Coordinated strategies for war crimes prosecutions are also important among the States of the former Yugoslavia. Currently, barriers to extraditing suspects and transferring evidence across State borders are impeding efforts to establish accountability for war crimes throughout the region. Solutions must be found to these problems as a matter of urgency.

This brings me to the third priority, namely, building the capacity of our counterparts in the region of the former Yugoslavia. We want to be sure that, by the time the Tribunal closes its doors, we have done everything possible to transfer information and expertise to courts in the region of the former Yugoslavia so that they can successfully manage the large number of remaining war crimes cases.

A key component of our efforts in this regard is our European Union-funded liaison prosecutors project, whereby three prosecutors from the region work as liaison prosecutors in our Office in The Hague. The liaison prosecutors are integrated with our staff and have a unique opportunity to consult with in-house experts and to access mainly Tribunal databases for the purposes of their local war crimes investigations and prosecutions.

The fourth and final priority I want to mention today is our commitment to downsizing our Office and ensuring a smooth and effective transition to the proposed residual mechanism. During the reporting period, our Office abolished 30 professional posts and 12 general service posts. This reduction of posts is part of a process that will continue and gather further momentum in the next reporting period as more trials end.

At the same time, our Office continues to engage in and contribute to discussions on the establishment of a residual mechanism to take over the outstanding aspects of our work when we close our doors. Designing an appropriate mechanism is a complex exercise, and we are making every effort to ensure that the Informal Working Group on International Tribunals established by this Council to carry out this task has our support and the benefit of our experience.

In concluding, I return to the theme I mentioned at the outset, namely, our common interest in striking the right balance between the expeditious completion of our activities and the integrity of our work. We are unquestionably focused on the end of our activities but, at the same time, we need the support of the international community more than ever. We need its commitment to ensuring that we have the resources necessary to complete our mandate. After 17 years of groundbreaking work and important accomplishments, we must not falter at this final hurdle.

Crucially, we need the international community's help in securing the arrest of the two remaining

fugitives. We have an obligation to ensure that those two individuals face the charges brought against them. We cannot abandon the victims of some of the worst crimes committed in the former Yugoslavia — including the genocide in Srebrenica — and leave them without full redress. More generally, the failure to arrest Ratko Mladić and Goran Hadžić impedes reconciliation in the region and damages the credibility of the international legal system as a whole.

While the key to the arrests lies in Serbia, the international community also has an important role to play. With its assistance and the effective implementation of conditionality policies, positive incentives can be given to Serbia to precipitate the arrests. With the concerted effort of all relevant actors, we can prevail over the fugitives and their support networks.

The President: I thank Mr. Brammertz for his statement.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: Since our last report to the Council on 18 June 2010 (see S/PV.6342), the Office of the Prosecutor at the International Criminal Tribunal for Rwanda (ICTR) has continued to focus its efforts on the core activities for ensuring the trial readiness of new cases; the completion of ongoing trials; preparations for the renewal of our requests for referral of cases to Rwanda for trial; preparations for the commencement of rule 71 bis evidence preservation proceedings; the conduct of appeals; the intensification of our tracking efforts; and the provision of legal assistance to national authorities in respect of cases being investigated by them.

Today, with the delivery this morning in Arusha of judgement in the *Hategekimana* case, we have now received five judgements arising out of the cases in progress. On our side, the Office of the Prosecutor has completed the evidence phase in the *Gatete* case and we have closed the prosecution phase in respect of three other cases — *Nzabonimana*, *Ngirabatware* and *Ndahimana* — that are now in the defence phase. These three cases now join the ongoing trial of Karemera and two others.

We are now ready to commence proceedings in respect of the *Nizeyimana* case, now scheduled for trial on 17 January 2011. Finally, since the last reporting period, the Office was able to secure the arrest of Jean-Bosco Uwinkindi, an indicted fugitive in Uganda, on 30 June, and to have him transferred to the Tribunal on 2 July. I would like to record our appreciation to the Government of Uganda for its cooperation in securing the arrest of this and other accused persons in the past and their transfer to the Tribunal. Indeed, the interval between the arrest and the transfer of — this particular accused was a record-breaking event in the way it was diligently pursued.

Over the same period, the Office of the Prosecutor also prepared and filed three prosecution appeals and responded to one defence appeal. Currently, work is under way in anticipation of appeals in respect of several judgements, which we expect to have delivered from December onwards.

On 4 November, following extensive law reform and measure to build the capacity of the Rwandan legal system to address the concerns of ICTR judges in the first round of referral requests, my Office filed applications for referral of three ICTR indictees to Rwanda for trial. They are Jean-Bosco Uwinkindi, a recent arrestee, and two other fugitives, Fulgence Kayishema and Charles Sikubwabo. The referral of all but three of the 10 fugitives to national jurisdictions for trial remains a key element of the completion strategy of ICTR. In the absence of acceptance of these cases by other Member States, Rwanda continues to be the focus of this strategy.

Two other cases — *Bucyibaruta* and *Munyeshyaka* — referred to France on 20 November 2007, remain with the French judiciary. It is our hope that Member States with the requisite capacity will share this responsibility of the ICTR completion strategy by accepting transfers from the Tribunals of some of the remaining cases.

A determination of the referral of the cases for which requests have been filed will have a clear impact on the completion strategy of the Tribunal and on the design, the timing, the size and the cost of the international residual mechanism expected to inherit the residual functions of the Tribunal. In the absence of a transfer of these cases and with the probable arrest of fugitives in the near future, the work of the Tribunal could increase significantly, thus extending the projected dates for the completion of trials. The transfer of such a workload to the proposed residual

mechanism would expand the size and perhaps alter the nature of such an institution. However, the referral of these cases now to national jurisdictions could possibly see the end of trials at the Tribunal by the end of 2011.

Tracking efforts to secure the arrest and transfer to ICTR of Félicien Kabuga, Protais Mpiranya and Augustin Bizimana continue to be a top priority of our tracking team. We continue to count on the call of the Security Council on all States to cooperate fully with us. We are committed, in the meantime, to continuing and intensifying our tracking efforts for as long as these fugitives remain earmarked for trial at ICTR.

In relation to the case of *Kabuga*, and following the invitation extended to me by the Government of Kenya in November 2010, I was able to meet last month with the Minister for Internal Security and other senior Government officials in Nairobi. I am pleased to report that the Government of Kenya and the ICTR delegation agreed to re-establish the joint ICTR/Kenya police task force, with the mandate to receive and review all material in the possession of the Government in respect of the fugitive; to investigate and report on his whereabouts and fully investigate his assets and other interests in Kenya so as to assist the ICTR tracking team; and to address all other pending issues in relation to the case. We have also agreed that the task force should report back within three months. I hope that this renewed promise of cooperation from the Government of Kenya will assist in our investigations and bring this matter to a favourable conclusion.

For over a year now, my Office has also been in contact with the Government of Zimbabwe in relation to the fugitive Protais Mpiranya, the former Commander of the Rwandan Presidential Guard and a top-level indictee of the Tribunal. There are indications that Mpiranya has connections with that country and had for several periods resided therein. During my visit to Harare in 2009, I was assured by officials of the Government of Zimbabwe of their cooperation in that particular matter. Investigators from my office continue to work with their Zimbabwean counterparts. All the same, I would urge the Zimbabwe Government to devote top priority to the case of this high-level fugitive in order to secure his location, arrest and transfer to Arusha.

The majority of the ICTR fugitives have been located within the Democratic Republic of the Congo. On a number of occasions, I visited that country and held discussions with high-level Government officials. We re-sent the indictments and arrest warrants regarding the fugitives to the Government and have been promised effective support and cooperation for their arrest. Nonetheless, I regret to report that, despite those regular efforts on the part of my Office, there has been very little progress in securing the arrest of the majority of the detainees who are in the Democratic Republic of the Congo. It is urgent that the Governments of the Democratic Republic of the Congo, Kenya, Zimbabwe and the neighbouring States intensify their cooperation and search for the 10 fugitives, all of whom, according to our sources, are within East, Central and Southern Africa.

Cooperation between the ICTR and national prosecuting and judicial authorities continues to strengthen, as more and more national jurisdictions opt to investigate, prosecute or, otherwise, deny safe haven to genocide suspects residing within their respective jurisdictions. During the current reporting period, my Office has already processed and attended to 58 such requests from 11 Member States for assistance with evidence. That represents a very significant increase over the levels in 2009. We expect that those requests will continue. The support that is expected from the Office of the Prosecutor involves an extensive search of our evidentiary database for relevant materials for use by the law-enforcement authorities.

Work on the international prosecutors' manual of best practice for the investigation and prosecution of international crimes, a concrete legacy product of the Colloquium of Prosecutors of International Criminal Tribunals, has received much needed support from the Government of Canada. The manual is under preparation and is expected to be ready by the middle of 2011. Indeed, we are greatly indebted to Canada for sponsoring that particular project.

In the months ahead, we expect to commence the trial of Idelphonse Nizeyimana, to file additional requests for the referral of the cases of the remaining five fugitives to national jurisdictions, to prepare for the commencement of evidence preservation proceedings in respect of the cases of Kabuga, Mpiranya and Bizimana, and, also, to continue our tracking efforts.

All those activities — preparing new cases, supporting ongoing trials and commencing fresh proceedings under rule 71 bis, as well as tracking —

continue to be challenged by staffing constraints. As reported at the last meeting (see S/PV.6342), the Office of the Prosecutor continues, at this critical juncture, to lose staff with experience and institutional memory in trial and, particularly, in tracking. Attracting competent and experienced staff to replace them for just a short period of time has been a slow process.

Extended multitasking on the part of staff and staff concerns about contract extensions and future employment security all add to the continuous loss of the critical human resources required for the timely and effective completion of our mandate. A sympathetic consideration of our difficulties in the current winding-down stage by the United Nations Secretariat and its organs would greatly facilitate our efforts for a timely and effective completion, to which we remain firmly committed.

The cooperation of Member States and the support of the Security Council, the other United Nations organs and the Secretariat have been, in the past, and will continue to be indispensable for the success of our strategy. I would like to record our appreciation of all such previous and ongoing support and look forward to further support at the current particularly crucial stage of our task.

The President: I thank Mr. Jallow for his briefing.

I shall now give the floor to Council members.

Mr. Mayr-Harting (Austria): Let me first of all congratulate you, Madam President, and the United States on assuming the presidency of the Council for the month of December. I would also like to thank the United Kingdom for the leadership that it showed in the month of November.

At the outset, I would like to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. In my statement today, I will first give an update on the activities of the Security Council Informal Working Group on International Tribunals, which Austria has the honour to chair. Subsequently, I would like to make some very brief remarks in my national capacity.

Since the last briefing on 18 June 2010 (see S/PV.6342), the Working Group has continued to meet on a regular basis, and it has held 14 meetings. The latest meeting with the Presidents, Prosecutors and Registrars of both Tribunals took place on 1 December. The members of the Group have also continued the informal dialogue with affected countries of the Tribunals. In particular, they had several meetings with representatives of Rwanda regarding a proposal to invite international judges to sit in Rwandan courts to hear cases transferred by the ICTR.

During the past six months, the Working Group has made important progress and is now close to finishing its discussions on a draft resolution on the establishment of an international residual mechanism for the criminal tribunals. The Group completed its third and fourth readings of the draft texts in mid-July and early November, respectively. On 24 November, the Chair presented a package consisting of the following elements: first, a resolution to be adopted under Chapter VII, in which the Security Council would decide to establish a residual mechanism with two branches — one for the ICTR and one for the ICTY — to continue certain essential functions of the Tribunals; secondly, annex 1 of the resolution, containing the statute for the residual mechanism; and, thirdly, annex 2 of the resolution, containing transitional arrangements for determining the transfer of functions and competences from the Tribunals to the mechanism.

In his recent report to the General Assembly on 8 October (A/65/188), President Byron made a strong call for an early adoption of the draft resolution on the residual mechanism so as to help the ICTR to prepare for a timely and smooth transition to the mechanism; and today, he made that point again. Under the current trial schedule, the ICTR expects to complete all pending first instance trials in Arusha by 31 December 2011. If the ICTR branch of the mechanism is not established in time, the ICTR will need not only to complete all pending appeals but also maintain a full, although potentially inactive, trial capacity to deal with the eventual arrests of fugitives and related functions, as President Byron explained today.

An analysis shows that that will entail significant costs for the ICTR, which would be considerably higher than the costs envisaged if the mechanism took over the trial function of the ICTR at an early date. Under any scenario, an overlap of the existence of the Tribunals with the mechanism for some time is inevitable. There is a sense of urgency for the Council to reach an agreement now, so as to allow for sufficient

time to make the necessary arrangements for a smooth transition to the mechanism, while avoiding any increase in costs.

After two years of negotiations, a final agreement on the establishment of the residual mechanism is within reach. Last Friday, the Working Group conducted a final reading of all draft texts. There are some questions still under discussion, all of which can be resolved with the necessary flexibility and political will. I am therefore optimistic that we can reach an agreement before the end of this year.

In addition to the discussions on the residual mechanism in May and June of this year, the Working Group also considered various requests by the Presidents of the Tribunals for extensions of judges' mandates. On 29 June, the Council adopted resolutions 1931 (2010) and 1932 (2010), in which it extended the terms of office of the trial judges until 31 December 2011, and the terms of office of the appeals judges until 31 December 2012. In resolution 1931 (2010), the Council further underlined its intention to extend, by 30 June 2011, the terms of office of the ICTY trial judges based on the Tribunal's projected trial schedule, and requested the President of the ICTY to submit to the Council an updated trial and appeals schedule no later than 15 May 2011. Both resolutions also called on States to intensify cooperation with the Tribunals and noted the importance of retaining experienced staff.

By letters of September and November, the Presidents of the ICTY and ICTR submitted new requests to allow some judges to complete their cases notwithstanding the expiry of their mandates by the end of 2010. The Working Group is currently preparing two draft resolutions, which are scheduled for adoption on 14 December.

Before concluding with this part of my statement, I would like to express my personal gratitude to Minister Konrad Bühler, the legal counsel of the Mission, who has effectively chaired the major part of the meetings of the Working Group. It is therefore to him and his instrumental efforts that the results achieved so far — and, it is hoped, will continue to be achieved to the end of this year — are due.

Turning now to the statement that I wish to make in my national capacity, I would like to reiterate Austria's strong support for the work of the ICTY and the ICTR, which carry out the crucial task of bringing to justice those responsible for the most serious crimes. Austria fully supports the efforts of the Tribunals to complete their work at the earliest possible date. However, we note with concern that the most recent reports reflect yet further slippage in the trial and appeals schedules, suggesting that the Tribunals' work is not likely to be finished before 2014, or in one case even 2015.

We urge the Tribunals to take all possible measures to complete their work expeditiously. My delegation is prepared to work constructively to assist them in achieving this goal. In this context, we acknowledge the importance of staff retention to preventing further delays and stand ready to help develop adequate strategies. I also want to recall resolutions 1931 (2010) and 1932 (2010), which call upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunals in order to find practicable solutions to address this issue.

The arrest of the remaining 12 fugitives, including Ratko Mladić, Goran Hadžić and Félicien Kabuga, remains a top priority for the completion of the Tribunals' work. We call on all States concerned to fully cooperate with the Tribunals.

With regard to the ICTY, the outstanding issue of fugitive arrests is specifically mentioned in the Prosecutor's report regarding the cooperation of Serbian authorities. Nonetheless — and I wish to underline this — the report stipulates that Serbia reported both in a timely manner and adequately in connection with all other requests made by the Office of the Prosecutor.

As to the cooperation of Croatia, the decision of the Trial Chamber of 26 July constitutes an important new development. Austria welcomes the continued commitment of the Croatian Government under Prime Minister Kosor to support the work of the inter-agency task force established in October 2009. In particular, we welcome the fact that the task force has begun to explore important new avenues suggested by the Prosecutor. We appreciate the regular dialogue and communication between Croatian authorities and the Prosecutor and remain confident that the work of the task force will help to resolve the outstanding issues.

With regard to the ICTR, we appreciate the Prosecutor's filing of three new applications for the referral of cases to Rwanda, as this might contribute to the completion of the Tribunal's work. We further

welcome the Prosecutor's report about his recent contacts with Kenyan authorities on the question of locating and arresting Félicien Kabuga. We reiterate the call on Kenya to render all the necessary assistance to the ICTR.

In conclusion, as this will be my last briefing in my capacity as Chairman of the Working Group, I would like to take this opportunity to thank the Presidents, Prosecutors and Registrars and all of the staff of the Tribunals for their important work for the cause of justice. I would also like to express our gratitude to all members of the Working Group for their active and constructive engagement, as well as to the Office of Legal Affairs and the Secretariat for their invaluable support.

Mr. Briens (France) (*spoke in French*): First of all, I would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for introducing their quarterly reports (see S/2010/574 and S/2010/588).

If we want the Tribunals to have lasting impact in the former Yugoslavia, Rwanda and other regions of the world where political and military leaders still believe that they can gain or remain in power through violence, then we must enable the Tribunals to appropriately and fully discharge their mandates. First of all, this means that the Council s vigilance must not waver, in particular with respect to the cooperation of States in arresting accused persons. The arrest and transfer of fugitives to the Tribunals remains a priority. Cooperation in this area is not only a bilateral matter between the Prosecutors and the States concerned; the international community and the Council, which established the two Tribunals, have a direct interest.

With respect to the International Criminal Tribunal for Rwanda, the President and Prosecutor Jallow have provided nuanced assessments to the Council. Ten accused persons — among them three high-profile accused — remain at large. But Kenya's cooperation, where the Council expressed some questions in June, could now materialize with respect to the Félicien Kabuga file. We welcome Kenya's open-mindedness and we hope, as does the Prosecutor, that the ongoing dialogue will result in the rapid arrest of Félicien Kabuga. We also hope for progress with respect to the Democratic Republic of the Congo, where most of the fugitives reside, as well as in Zimbabwe. On behalf of France, I would like to thank Prosecutor Jallow and his entire team for their tireless efforts towards dialogue with countries of the region to ensure that the last of the fugitives are arrested.

With respect to the International Criminal Tribunal for the Former Yugoslavia, the arrest by Serbian authorities of Mr. Radovan Karadžić constituted considerable progress. We also await the arrests of Mr. Mladić and Mr. Hadžić. As the Council of the European Union reiterated in its decision of 25 October, both the Stabilization and Association Agreement and the Interim Agreement require Serbia's full cooperation with the ICTY, which is an essential precondition to joining the European Union. In that regard, the Council of the European Union will attentively follow the reports of the Office of the Prosecutor on progress in that area. The European Union has urged Serbia to implement the recommendations made by the Office of the Prosecutor to the Security Council in June with respect to Serbia's assistance, especially on the critical issue of the arrest of the last two accused at large, namely, Ratko Mladić and Goran Hadžić. That would constitute the most convincing evidence of Serbia's efforts in that area.

We must be very clear. Arrest warrants will not disappear. The question of fugitives will not disappear from the Council's agenda. If they are not arrested in the next few months, the ability to look for and arrest them will depend on the residual mechanism, which will, at the appropriate time, have to take over responsibility from the Tribunals. That is the goal of the Informal Working Group on International Tribunals which, under the effective leadership of Austria, has developed a draft resolution on the statute for the mechanism. I would therefore like to thank our Austrian colleague for his leadership on this matter.

The briefing that we have just heard confirms the trial timetables as well as the difficulties that the Tribunals will have in keeping to the timetables if we do not give them the wherewithal to conduct the trials and appeals while fully respecting the rules of fairness. We must find pragmatic solutions for the problems of retaining staff and the length of the judges' mandates so that the Tribunals will step up the effectiveness and the pace of their work.

Mrs. Viotti (Brazil): I join previous speakers in thanking the honourable Presidents and Prosecutors of

the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their comprehensive reports on their respective completion strategies (S/2010/588, annexes I and II, and S/2010/574) and their work.

Since this is the last Security Council debate on the two Tribunals this year, I wish to take this opportunity to thank Ambassador Thomas Mayr-Harting of Austria and his team for their remarkable work in the chairmanship of the Informal Working Group on International Tribunals and also the diligent way in which they conducted negotiations on matters pertaining to both ad hoc Tribunals.

I would like to briefly address four points related to the Tribunals: their completion strategies and the progress achieved so far, staff retention, international cooperation, and outreach activities.

Both Presidents have reported on the significant challenges and obstacles that the Tribunals have faced in their ordinary activities. We believe, however, that despite those significant hurdles, both ICTY and ICTR have indeed made clear progress in discharging their functions and fulfilling their completion strategies. Their efforts are commendable and should be further supported by the Security Council in order to allow for a prompt conclusion of all remaining judicial activities.

On staff retention, my delegation is deeply concerned at the current situation and the trend noted in both Tribunals with respect to personnel attrition. Keeping qualified personnel at the Tribunals is necessary to ensure that they will continue to carry out the completion strategies while fully respecting the due process of law. Therefore, we continue to believe that some form of arrangement needs to be made in order to ensure that the Tribunals continue to be staffed by the most highly qualified people.

Cooperation between Member States and the Tribunals remains a key element not only for the success of their completion strategies but also for the appropriate delivery of justice. All States concerned should be encouraged to do their utmost to promptly respond to requests issued by the Tribunals, including with regard to arrests of fugitives and possible referral of cases to national jurisdictions. We are encouraged by the increasing cooperation with the Tribunals and welcome the arrest of another fugitive.

Regarding outreach, activities of that kind and capacity-building become even more important as the implementation of the completion strategies progresses. The affected communities should be well informed of the evolving process and how it is going to impact the administration of justice. They should also be made aware of the new mechanism that will replace the Tribunals as soon as possible.

Furthermore, in view of the efforts to refer cases to national jurisdictions, in particular with respect to the ICTR, Member States interested in receiving those cases should have access to enhanced international cooperation to improve their national capacities, if they so require. The Tribunals could play a central role in that regard. Still on that topic, we took note with interest of the request made by the Prosecutor of the ICTR to refer three cases to a national jurisdiction. In our view, that may contribute to the completion of the Tribunal's activities and allow States to exercise their responsibilities in terms of the realization of justice.

Before concluding, I wish to say a few words on the issue of the residual mechanism. One of the main challenges in relying on an ad hoc tribunal instead of a permanent one is precisely what to do when the institution has fulfilled most of its core functions but important tasks remain, such as eventual trials of fugitives, supervision of the execution of sentences, witness protection and preservation of documentation. In devising a completion strategy, one should not overemphasize the goal of a speedy conclusion of activities to the detriment of the principle of due process. Otherwise, the legacy of the tribunal may be at risk and, consequently, its impact on the affected communities' perception of justice threatened. At the same time, no effort should be spared to make progress and comply with deadlines.

The early establishment of a residual mechanism will add another element of certainty to the delivery of justice. My delegation hopes the current efforts to create such a mechanism for the International Tribunals will bear fruit soon. Brazil has participated actively in that endeavour and will continue to do so in the coming days and weeks. The Council can continue to count on my delegation in that regard.

Ms. Ziade (Lebanon) (*spoke in Arabic*): First of all, I would like to thank the Presidents of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for

Rwanda (ICTR) and their Prosecutors for their inclusive briefings.

Lebanon appreciates the efforts made by the leaders of the International Tribunals to implement the completion strategies for their work as soon as possible. We take stock of the progress that has been made throughout all phases of the trials. We understand the difficulties that the Presidents of both Tribunals have not been able to overcome. These difficulties have made it impossible for the Tribunals to complete their work within the given deadlines, due above all to staff attrition. Staff attrition has had a negative impact on the capacity of the Tribunals to fulfil their mandates.

Lebanon thus reaffirms the need for the Security Council to adopt necessary measures to enable the Tribunals to complete their work as soon as possible without sacrificing the judicial requirements. We call for a transfer of a greater number of cases to national jurisdictions that meet the necessary conditions for holding just and fair trials. That in turn would ease the workload of the ICTR and the ICTY and would help expedite the implementation of the strategy.

Lebanon welcomes the cooperation demonstrated by the majority of States with the two International Tribunals, above all by the States of the former Yugoslavia and the countries neighbouring Rwanda. We call on those countries to extend their full cooperation. The role played by those States is essential in locating individuals who are at large, leading to their arrest and extradition. Those States can also provide information and evidentiary documentation, making it possible to reach the truth to ensure that justice is done.

Furthermore, Lebanon appreciates the efforts made by the Informal Working Group on the International Tribunals under the chairmanship of Austria. Here we commend the Permanent Representative of Austria and his team for their good management of the Group's work.

Lebanon hopes that the residual mechanism will be established, as that will complete the work of the two Tribunals. That mechanism will guarantee the protection of witnesses, the arrest of fugitives and the preservation of the archives of the proceedings, which constitute a valuable reference framework for international criminal law.

The establishment of two International Tribunals expresses our rejection of the killing of innocents, of impunity and of subversive actions. We believe that the Tribunals' success in achieving the anticipated goals is the keystone for the protection of civilians, as it will bring perpetrators to justice and ensure the rule of law, at both the national and international levels.

That is therefore a mandatory right of passage to turn a painful page in the history of the former Yugoslavia and Rwanda, to bring about solid national reconciliation, to maintain stability and deter future criminals, to render justice to the victims and to ease the suffering of their close family members. Lebanon supports all initiatives and endeavours to ensure that justice is done.

Mr. Barbalić (Bosnia and Herzegovina): I wish at the outset to extend a warm welcome and our appreciation to Judges Patrick L. Robinson and Dennis Byron, Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) respectively, as well as to the Prosecutors of the Tribunals, Mr. Brammertz and Mr. Jallow. Their extensive briefings today, together with the reports before us (see S/2010/588 and S/2010/574), reflect the tireless work of the Tribunals and their efforts to contribute to the overall fight against impunity.

Being the country most affected by the crimes under the jurisdiction of one of the Tribunals, we would like to emphasize how important it is to bring justice to the victims and their families and hold accountable those who committed the heinous crimes in Rwanda and the former Yugoslavia. In that context, we reiterate the strong support of Bosnia and Herzegovina for the Tribunals and our commitment to full cooperation.

After careful consideration of the reports, it is evident that the Tribunals have undertaken every effort to bring their work to an end in an efficient and reasonable manner, especially bearing in mind that they faced many obstacles beyond their reach and out of their control. We should not allow the Tribunals' groundbreaking contributions to international jurisprudence to succumb to the pressure to end their mandate with partial results and without adequate resolution.

Thus the support and encouragement of the Council is both crucial and necessary at this sensitive

and important period in the Tribunals' existence. A timely, efficient and complete transition to a residual mechanism requires that the mechanism be very carefully constructed as a credible and proper continuation of the Tribunals' functions.

In that regard, allow me to extend our appreciation to Ambassador Mayr-Harting for his strong leadership in chairing the Informal Working Group on International Tribunals and to commend the entire Austrian delegation for its dedication and tireless work. As a result of their efforts, the Group's deliberations are successfully moving toward the creation of a residual mechanism that will adequately reflect the Tribunals' legacy.

Furthermore, Bosnia and Herzegovina has, with each new report, demonstrated a commitment to its obligations and unwavering support for and dedication to strengthening international criminal justice. That is reflected in a record of continued and positive cooperation between Bosnia and Herzegovina and the ICTY. As stated, the authorities of my country have effectively responded to all requests of the Office of the Prosecutor, providing documents, enabling unobstructed access to government archives and facilitating the appearance of witnesses before the Tribunal. Cooperation has been particularly constructive in regard to the Rule 11 bis cases transferred by the Office of the Prosecutor to the War Crimes Chamber of the State Court of Bosnia and Herzegovina. Five of the six cases transferred to Bosnia and Herzegovina have been concluded with final decisions.

Bearing all that in mind, it is disappointing and frustrating that the Tribunals still account for 12 fugitives and especially that Félicien Kabuga, Ratko Mladic and Goran Hadžic are still at large, undermining and ridiculing the very notion of justice that we are all dedicated to. Therefore, the Tribunals' efforts to comply with the completion strategy and our tireless work in developing a residual mechanism are useless until we take firm steps and serious measures to bring those criminals to justice. Additionally, the unconditional cooperation of relevant international and regional organizations and States is essential for the fulfilment of the Tribunals' mandates.

Finally, I would like once again to voice Bosnia and Herzegovina's support for the work of both Tribunals, which we regard as highly important. At the regional level, it has brought justice to those who suffered the most, contributed greatly to the advancement of the rule of law and paved a path towards reconciliation. At the global level, it is considered a milestone in the existing system of international criminal justice. As such, it needs to be respected and preserved.

Mr. Sumi (Japan): I would like to express my appreciation to the Presidents and Prosecutors of the respective Tribunals for briefing us on the latest developments concerning their completion strategies. The contribution of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) to the development of international criminal justice cannot be overstated.

Today, I would like to touch upon three points, namely, the completion strategy, cooperation and the residual mechanism.

First, the completion strategy. Japan had been strongly urging and expecting the Tribunals to complete all judicial proceedings by the end of 2010, in accordance with resolution 1503 (2003). Although Japan recognizes that proceedings are ongoing, it is regrettable that the goal of completion could not be achieved. We would like to strongly encourage the Tribunals to complete their work expeditiously and urge them to make all possible efforts to bring their tasks to completion while continuing to ensure fair trials.

Regarding the requests of the Tribunals for extension of the terms of judges, we consider that a necessary measures in order to accomplish the completion strategies in an expeditious and cost-effective manner. Japan therefore is prepared to take active part in the work on the required measures together with other members of the Council.

We also take note of the necessity of staff retention for the success of the work of the Tribunals. We take this occasion to state our high appreciation of the Judges, Prosecutors, Registrars and all the other staff of the Tribunals for their unyielding commitment to the fight against impunity.

Now I would like to draw attention to the issue of cooperation, cooperation by States. The arrest of the remaining fugitives is absolutely essential for success of the Tribunals. It is regrettable that two suspects indicted by the ICTY — Ratko Mladic and Goran

Hadzic — and 10 under indictment by the ICTR, including Felicien Kabuga, have yet to be apprehended. We continue to encourage the relevant States to cooperate fully in securing the arrest of all indictees as soon as possible.

The referral of cases to national jurisdiction is also an important part of the completion strategy. Among others, we highly appreciate the efforts made by the Rwandan authorities to realize the referral of cases.

With regard to the ICTY, cooperation by States of the former Yugoslavia in areas such as access to archives, documents and witnesses is also vital. We take positive note of the efforts made by Croatia through its task force to further improve the quality of the administrative investigation in response to the request of the Prosecutor regarding the missing documents. We take positive note as well of the expeditious support by Serbia for the cases before the court, and the satisfactory support provided by Bosnia and Herzegovina in response to the requests of the Prosecutor, including witness protection. We trust that those States will continue their efforts in that direction.

Now, on the issue of the residual mechanism, Japan attaches great importance to the rule of law and considers that impunity in the case of the most serious crimes must not be condoned and that the individuals involved must be brought to justice in accordance with international standards. The residual mechanism of the ICTY and the ICTR should serve to that end. Japan has been actively participating in the discussion on the mechanism in the Informal Working Group on International Tribunals, under the chairmanship of Austria. We appreciate the efforts of the Office of Legal Affairs, which recently submitted an additional report on the location of the mechanism. We will continue to consider actively and carefully the relevant draft resolution and statute, with a view to their early adoption.

In conclusion, the present reports of the two Tribunals will be the last before Japan concludes its present term of membership in the Security Council. I would like to take this opportunity to express my appreciation for the sincere efforts made by the Presidents, the Prosecutors, the Registrars and all staff members of the Tribunals, as well as those of Austria in its capacity as Chair of the Informal Working Group, towards the achievement of justice.

Mr. Parham (United Kingdom): Many thanks indeed to Presidents Robinson and Byron and Prosecutors Brammertz and Jallow for their briefings this morning, their comprehensive reports (see S/2010/588 and S/2010/574) and their reminders of the nobility and importance of their work in the interests of international justice. I would like to start by reiterating the United Kingdom's continuing support for the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) in combating impunity and bringing justice to victims in the former Yugoslavia and Rwanda. We thank all the judges and staff of the Tribunals for their contributions to these important efforts.

The United Kingdom welcomes the ongoing work to implement the completion strategies of the two Tribunals, although we remain concerned that further slippages have taken place in the forecast completion dates. However, we welcome the rapid commencement of the ICTR trials of two fugitives arrested during the past year, which have successfully been incorporated within the ICTR completion strategy without undue delay. We also note with satisfaction that a significant landmark in international criminal justice is forecast with the completion of first-instance trials at the ICTR by the end of 2011.

The United Kingdom also acknowledges the Tribunal's efforts to expedite trials without sacrificing due process and to reduce the impact of contempt proceedings. We note the successful time- and cost-saving measures, for example, greater efficiencies in the provision of documents. We encourage all parts of both Tribunals to look for such innovative approaches and to share best practices where possible, with a view to avoiding further delays in completion.

We recognize, however, that both Tribunals continue to face difficulties caused by staff losses, which have contributed to delays in the progress of trials and appeals. Staffing matters are not directly within the competence of the Security Council. Taking Judge Robinson's analogy of the Council as the architect of the Tribunals, the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee of the General Assembly are the quantity surveyors. But we take this opportunity to express our support for action by the Secretariat and the responsible organs of the United Nations in order to find practical solutions to address these problems. The

Tribunals need to be adequately staffed to enable them to complete their work.

State cooperation is vital to enable the Tribunals to fulfil their mandates, in particular in relation to the provision of documents and in tracing fugitives. The work of the Tribunals will not be complete until all fugitives have been brought to justice. We note with satisfaction the arrest of one of the remaining fugitives from the ICTR in the past six months. We note also Prosecutor Jallow's report this morning of recent progress in his discussions with Kenya, which we hope will bear fruit in relation to the search for Felicien Kabuga. The United Kingdom is encouraged by these positive developments. We call on Kenya to continue to work with the Prosecutor and to supply all the relevant information it holds on the current whereabouts of the fugitive Kabuga. In the light of the Prosecutor's briefing this morning, we also call upon the Democratic Republic of the Congo and Zimbabwe to step up their cooperation with the Tribunal in order to bring the remaining ICTR fugitives to justice.

The United Kingdom has noted Prosecutor Brammertz's assessment of cooperation with the ICTY by the States of the former Yugoslavia. We welcome the steps now being taken by Serbia and Croatia and urge both States to maximize coherent and expeditious efforts across all relevant Government agencies to provide documents and access to witnesses, to resolve inconsistencies and to bring the fugitives to justice as soon as possible. These efforts are key to the successful completion of the Tribunal's work. We will continue to follow events closely to ensure that as much as possible is being done.

As the two Tribunals approach the completion of their mandates, the Security Council must establish a mechanism to carry out the essential residual functions of the Tribunals that need to continue after their closure. The Security Council's Informal Working Group on International Tribunals has been working steadily on these complex and novel issues over several years, and has made significant progress in recent months towards the finalization of a draft resolution, as reported by Ambassador Mayr-Harting in his statement. I would like to take this opportunity to commend Ambassador Mayr-Harting and his delegation for their hard work, dedication and leadership in taking this issue forward during their time on the Council.

The United Kingdom believes that the time is now ripe for the adoption of a draft resolution to establish a residual mechanism. The adoption of such a draft resolution would, for the first time, provide a clear road map for the closure of the Tribunals while maintaining essential legal safeguards and signalling that fugitives will not be able to outlast justice. We call on all members of the Security Council to engage positively over the coming days to reach a successful result.

Mr. Apakan (Turkey): Let me begin by congratulating the delegation of the United States on its assumption of the presidency of the Council. I also wish to thank the Mission of the United Kingdom for its excellent handling of the Council's business last month.

I wish to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) for the comprehensive briefings they have just provided. The work carried out by the Tribunals since their inception is of significant importance to the fight against impunity and to advancing the rule of law and paving the way for reconciliation among the States concerned. We also acknowledge the significant contribution the Tribunals have made to international criminal justice.

However, in spite of their dedicated work and continued efforts to pursue the completion strategy, the Tribunals are not able to finish their work before the target dates envisaged in resolutions 1503 (2003) and 1534 (1534), respectively. Thus, we are now at a point where all the necessary steps must be taken to establish an international residual mechanism for criminal tribunals, which should have competence to complete all pending trial proceedings. The issue is still under consideration by the Informal Working Group chaired by Austria, which has made substantial progress in bringing such a mechanism to life. We expect a draft resolution to be adopted before the end 2010. We thank the Austrian delegation for their valuable efforts. We also appreciate the fact that the Tribunals have undertaken several measures in preparation for the transition to a residual mechanism. We encourage them to continue their efforts.

We take note of the comments of both Presidents concerning the terms and conditions of staff and judges of the Tribunals. As members will recall in connection

with the issue of extending judges' mandates, the Council responded positively to the demands of the Presidents of the International Criminal Tribunals in its resolutions 1931 (2010) and 1932 (2010) of 29 June. We are confident that at such a critical juncture further extension requests will also be accommodated by the Council in the days to come.

We are still concerned by the fact that the number of fugitives remains unchanged since the last biennial reports of the Tribunals. All States, especially those in the regions concerned, must fully and effectively mobilize all available resources and continue to give full support to the operational services that have been tasked with tracking and apprehending the remaining fugitives, including Ratko Mladić and Goran Hadžić. In that respect, cooperation by the States of the former Yugoslavia remains crucial.

Effective cooperation by States in other areas, such as access to archives, documents and witnesses, continues to be an essential part of the work of the Tribunals. We take positive note of Croatia's continued and serious efforts regarding cooperation with the Office of the Prosecutor. We note that the Prosecutor's report recognizes the responsiveness of the Croatian authorities in general and refers to the access provided to witnesses and evidence. Within that context, we welcome the work of the Croatian Interagency Task Force to locate or account for the missing military document that was requested by the Court.

We also welcome Serbia's continued cooperation, as well as the adequate response by Bosnia and Herzegovina to requests from the Prosecutor. Likewise, we appreciate Rwanda's continued cooperation with the ICTR in various areas. We commend those countries for their improved level of cooperation and hope that it will lead to the achievement of full justice and reconciliation.

In conclusion, I should like to express once again our sincere thanks to the Presidents, Prosecutors and all judges of both Tribunals for their professionalism and dedicated work.

Mrs. Ogwu (Nigeria): First, I should like to add my voice to those who have expressed appreciation to the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their very comprehensive and lucid briefings on the work of the Tribunals. We commend the ICTY and ICTR for their steady progress in implementing their completion strategies in spite of daunting challenges. It is encouraging that they have remained firmly committed to expediting their proceedings, while complying with due process standards.

It is a matter of deep concern that the work of the Tribunals has been fraught with delays. Staff constraints, especially the loss of highly experienced personnel, have continuously undermined the expeditious and efficient completion of the Tribunals' mandates. Indeed, we cannot overemphasize the urgent need for measures to support staff retention as well as recruitment, particularly at this critical stage in the Tribunals' life. We believe that only concerted action will reduce the rate of staff attrition.

We also note that efficient cooperation with all Member States with the Tribunals will be crucial for the success of the completion strategy. Such cooperation will, we believe, ensure the arrest of the remaining fugitives, the referral of cases to national jurisdictions, the transfer of convicts for the execution of their sentences and the relocation of acquitted persons, as well as of those who have served their sentences.

It is distressing that some fugitives have remained at large. We urge all States to cooperate with the Tribunals to ensure that those fugitives are apprehended and brought to justice.

We note with satisfaction the increased referrals of cases to national jurisdictions during the reporting period. The expected result is a reduction in the overall workload of the Tribunals. It is a positive development that the Tribunals have continued to make vigorous efforts to strengthen the capacity of national jurisdictions in the prosecution and trial of violations of international humanitarian law. In the same vein, we commend the efforts by the ICTR to establish a response mechanism for mutual legal assistance requests from national prosecuting authorities. Such capacity-building activities must be intensified, since they will serve as precedents to guide the activities of national authorities.

We commend the ICTY and the ICTR for their efforts to improve awareness of their work through outreach programmes. In addition to providing information of their achievements, we believe that such activities serve to highlight the challenges that the

Tribunals encounter in implementing their completion strategies. They also support the fight against impunity with regard to genocide, war crimes and crimes against humanity.

We encourage the ICTR to sustain its trainer-training programme in view of the Tribunal's role in promoting self-sustaining knowledge transfer to national authorities. We support efforts to establish sustainable reference centres of information and archives on the activities of the Tribunals as part of their outreach activities.

Let me take this opportunity to commend the Council's Informal Working Group on International Tribunals, led by Ambassador Thomas Mayr-Harting, for its sterling work. We believe that it has set the pattern for attaining justice.

Mr. Issoze-Ngondet (Gabon) (*spoke in French*): At the outset, I wish to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their respective statements on the implementation of the Tribunals' completion strategies pursuant to Security Council resolutions 1503 (2003) and 1534 (2004).

I should also like to pay tribute to Ambassador Mayr-Harting, the outgoing Chair of the Council's Informal Working Group on International Tribunals, for the skill he has shown in guiding the work of that Group. Under his leadership, the Working Group reached agreements that represent an important step towards the finalization of draft resolutions and statutes establishing the residual mechanism.

My delegation is of the view that there are three crucial areas that require the attention of the members of the Council so as to enable the Tribunals to best accomplish their mandates, namely, support for the Tribunals; cooperation between States and the Tribunals; and the strengthening of national judicial capacities.

With regard to support for the Tribunals, my delegation welcomes the measures taken by the Council with a view to supporting the efforts being made by the Tribunals in spite of the challenges encountered in carrying out their mandates. Indeed, the constant support of the Security Council for the activities of the Tribunals is indispensable for their proper functioning.

While we appreciate the steps taken under resolutions 1931 (2010) and 1932 (2010), my delegation encourages the Council to continue working in that direction in order to strengthen the effectiveness of the Tribunals. In that regard, it is important to step up the resources available to the Tribunals in order to allow them to retain the qualified staff whose expertise is indispensable to the Tribunals' optimal functioning.

The effectiveness of the Tribunals also depends upon cooperation with Member States, in particular when it comes to the fight against impunity. Such cooperation could lead to the arrest of the 12 high-ranking fugitives, including Ratko Mladić, Goran Hadžić, Félicien Kabuga, Portais Mpiranya and Augustin Bizimana. If they are not tried in the near future, the credibility of the Tribunals will be tarnished. We therefore encourage the States of Europe, the Great Lakes region and southern Africa and neighbouring countries to enhance their cooperation with the Tribunals so that they may implement their completion strategies. In that regard, the exemplary cooperation of Bosnia and Herzegovina is to be commended.

As we stressed at the last debate on this item (see S/PV.6342), strengthening the capacities of national judiciary systems would also play a role in ensuring the full success of the completion strategies. The training of staff of national judiciary institutions, in particular judges and auxiliary agents, should be continued and remain a fundamental aspect of the implementation of the completion strategies. To that end, my delegation welcomes the special provisions that the Rwanda Tribunal plans to implement in order to respond effectively to the requests for mutual legal assistance made by 11 States of the Great Lakes region in the context of the proceedings against Rwandan fugitives.

The International Tribunals undeniably contribute to the development of international criminal law and the fight against impunity. They therefore constitute an institutional and legal legacy that must be preserved. My country supports the efforts of the Tribunals and all actors involved to meet that noble objective.

The outreach work concerning the Tribunals' scope of work, involving Governments, international organizations, national courts, non-governmental organizations and universities, shares the same objective and deserves our fullest support. What is at

stake is the need to render justice to the victims and to fight impunity.

Ms. Guo Xiaomei (China) (*spoke in Chinese*): I wish at the outset to thank President Robinson, Prosecutor Brammertz, President Byron and Prosecutor Jallow for their briefings on the implementation of the completion strategies of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and for the reports submitted to the Council (see S/2010/588 and S/2010/574).

We note that the work of the Tribunals continued to register new progress during the reporting period. We acknowledge that progress. In 2003, the Security Council adopted resolution 1503 (2003), establishing the timetable for the completion strategies and calling on the Tribunals to complete all their work by 2010. As we approach 2011, we note that the timetables established by the Security Council will not be met. According to the latest reports of the two Tribunals, the ICTR's timetable will be extended to the end of 2013, while that of the ICTY will be extended to 2015. We express our concern over the delays in the relevant work.

We understand that there are many reasons behind the delays, some likely beyond the anticipation of the Tribunals. The Tribunals have worked strenuously to enhance the efficiency of their work, but as noted in the ICTR's report, "[c]ontinuing efforts to further improve pretrial and trial management as well as the judgement drafting process are therefore crucial" (*S/2010/574, para. 34*). We hope that the Tribunals will pursue their efforts in that regard, accelerate the pace of their work and complete their tasks as soon as possible. We also note the concern expressed by both Tribunals regarding the retention of staff. It is our hope that appropriate solutions can be found to this problem.

Referring cases and fugitives, to the maximum extent possible, to countries willing and able to handle them will be an important step in the implementation of the completion strategies. We note that the ICTR Prosecutor has asked to refer three cases to Rwanda for trial. We welcome this development and hope to see positive results. We also support the countries concerned in rendering full cooperation to the Tribunals.

The Security Council Informal Working Group on International Tribunals is conducting intensive consultations on a draft resolution on the residual mechanisms for the two Tribunals, in the expectation that agreement can be reached by the end of the year. I take this opportunity to thank Austria, as Chair of the Working Group, and the United Nations Office of Legal Affairs for their tireless efforts on behalf of the Working Group. We will continue actively and constructively to participate in the consultations, and look forward to reaching agreement by the end of the year.

Mr. Pankin (Russian Federation) (*spoke in Russian*): We thank the Presidents and Prosecutors of the Tribunals for the information they have provided on their efforts to implement their completion strategies. Their briefings are especially important now as the Security Council Informal Working Group on International Tribunals is seeking to convert the Tribunals into a residual mechanism. We acknowledge that completing the work of those two international judicial bodies is a rather complex task, both for the Tribunals themselves and for the Security Council.

Based on the reports before us (see S/2010/588 and S/2010/574), it is clear that most of the path to completion has been travelled. Many violators of international law have been found guilty, and the Tribunals' contribution to the development of national judiciary systems has been great. The States established on the territory of the former Yugoslavia and Rwanda are prepared independently to uphold a high standard of criminal justice.

Against that backdrop, we are even more concerned about the continued prolongation of the Tribunals' existence. The members of the Council have always been understanding of the practical problems encountered by the Tribunals and have accorded many mandate extensions. However, there are reasonable limits. Six months ago, the International Tribunal for the Former Yugoslavia (ICTY) reported that it was prepared to complete the first instance cases in 2012, and the subsequent appellate work in the *Karadžić* case in 2014. We have now heard that this may be 2015. We have observed such developments in the Council for many years now.

Our analysis of the information provided by the Tribunal shows that it is difficult to explain this delay by objective criteria, such as the emergence of new evidence, the obstructionist behaviour of the defendants, or the slowness of witnesses to testify. It is very difficult for us to understand why defendant

Šešelj had to wait more than six years for proceedings to start in his case. It is difficult to understand why the purely technical work of establishing a sentence should take a year. We are not especially swayed by the argument that it will take a year to hand down sentences in the *Prlić et al.* case because there are six accused involved.

The judges of the ICTY have sufficient qualified assistance effectively to discharge their technical work, and with all due respect to that Tribunal, we note that even the International Court of Justice — working on the most problematic cases with huge political resonance and legal significance — does not encumber its case work with such lengthy time frames. Another example was the Nuremberg Tribunal, which took barely more than a year to find guilty those who may well have been the most monstrous criminals in the history of mankind.

On that basis, we are deeply concerned by accounts that the delays in a number of cases before the Tribunal are artificial and caused by the slowness of some judges and other personnel in their work. We express the hope that these reports are merely rumours; nevertheless, we would be grateful if the Presidents were to take a second look at issues of discipline and performance.

For our part, we believe that the effective completion of the Tribunals' work would be expedited by the identification, in the draft resolution currently under consideration by the Council on the residual mechanism, of explicit and realistic deadlines for moving the Tribunals' work to completion. It is our intention to work constructively with all our Council colleagues on this issue.

With respect to our view of the parameters of the residual mechanism, we have consistently advocated for a mechanism that is compact, effective and guided by reasonable timelines for beginning and ending its work. In the case of fugitives from either Tribunal being apprehended during the final phase of that Tribunal's operation or after its completion, such fugitives must be tried by the mechanism. Accordingly, the mechanism must have all it needs in order to discharge that function.

The Russian Federation is committed to dispensing international criminal justice according to the highest legal standards. There is no doubt that those indicted by the Tribunals who for various reasons are still at large must appear before the Courts. The apprehension of fugitives and the prompt completion of the Tribunals' mandates can be accomplished through the conscientious cooperation of regional States with the Tribunals. We call on those States to make every necessary effort to promote the highest level of cooperation with the Tribunals.

Mr. Rugunda (Uganda): I thank you, Madame President, for convening this meeting, and I congratulate you and your delegation on your assumption of the presidency of the Council for the month of December. I also thank the delegation of the United Kingdom for its outstanding work in leading the Council during the month of November. We welcome the presence of the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda and the International Criminal Tribunals for the Former Yugoslavia, and we thank them for their briefings.

The Security Council, by resolutions 1503 (2003) and 1534 (2004) set timeframes during which the Tribunals were expected to complete all trial activities, and has stressed the importance of fully implementing the completion strategies. We therefore welcome the trial management initiatives undertaken by the Tribunals, which have resulted in more expeditious trials. We also recognize that the discovery of new evidence — such as the finding of Mladić's diaries — may lead to further delays. Accordingly, we support the requested extensions to enable the judges to complete their cases with due regard for the envisaged completion strategies.

We are concerned by the high turnover of highly qualified and essential staff, which exacerbates an already difficult situation, further impacting the expeditious completion of the trials. The loss of about 100 staff members this year alone is a cause for concern. We call upon the Office of Human Resources Management of the United Nations to recognize the unique repercussions of downsizing the Tribunals and to exercise the necessary flexibility in order to forestall this staff attrition. We therefore commend the staff members who have continued to serve at the Tribunals amidst the uncertainty of job security.

We welcome the plan of the International Criminal Tribunal for Rwanda to transfer some cases for appropriate action within the Rwandese judicial system. We also welcome the increased tracking efforts to secure the arrest and transfer to the Tribunal of

Felicien Kabuga, Protais Mpiranya and Augustin Bizimana. We commend the increased cooperation between the Prosecutor and the authorities in Kenya, Zimbabwe and the Democratic Republic of the Congo in an effort to successfully track those suspects.

It is important to ensure that the relocation of witnesses, discharged convicts and acquitted persons is properly handled in order to avoid long-term ramifications for international justice, as was expressed in the briefings. In this regard, we therefore welcome the recent signings of the cooperation agreement between the Government of Senegal and the International Criminal Tribunal for Rwanda.

It is essential to ensure not only that justice be done but that it be seen to be done. That should also be reflected in the compensation of those charged with dispensing justice. My delegation is hopeful that the General Assembly will appropriately address the issue of inequality in emoluments between permanent and ad litem judges.

Finally, I would like to thank the staffs of the two Tribunals for their very good work, and I also thank Ambassador Mayr-Harting and the delegation of Austria for the important work they have done in the past two years as Chair of the Informal Working Group on International Tribunals.

Mr. Heller (Mexico) (*spoke in Spanish*): I would like first of all to congratulate you, Madame President, your delegation, and Ambassador Susan Rice on your assumption of the presidency of the Council for the month of December. We also wish to express our appreciation to the delegation of the United Kingdom for its excellent work in the presidency during the month of November, carried out with imagination and creative spirit.

My delegation would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia for introducing their respective biannual reports on progress in their completion strategies (see S/2010/574 and S/2010/588).

Mexico recognizes the efforts that both Tribunals have made to expedite the completion of their judicial activities in a responsible and efficient way, as well as the progress made in the implementation of their completion strategies over the past six months, and the manner in which they have guaranteed the rendering of justice and respect for the rights of the accused, the witnesses and the victims.

However, considering the reports before us this morning, it is clear that the Tribunals will be unable to conclude their work by the dates that were set in resolutions 1503 (2003) and 1534 (2004) and that their work will continue beyond 2010 and most likely until the end of 2013. Factors such as the lack of cooperation, the difficulty of retaining qualified staff and of referring cases to national courts, and the lack of agreement about the relocation of acquitted persons, among others, pose significant challenges to the prompt conclusion of the Tribunals' mandates. Therefore, it is important that both Tribunals be given the means to conclude their judicial work as soon as possible. It is necessary to extend the terms of office of their respective judges in order to allow them to conclude the cases they have been assigned.

The cooperation that States provide to Tribunals is also key. In that respect, we call upon the States concerned to respond without delay to requests made by the specialized bodies of the Tribunals, in particular with regard to locating and arresting the fugitives mentioned. We commend in particular the valuable judicial cooperation provided by the Government of Uganda in apprehending Mr. Jean-Bosco Uwinkindi on 30 June. We also express our appreciation for the cooperation demonstrated by the Government of Croatia, which we encourage to continue to cooperate with the same readiness regarding matters pending before the Tribunal. We also acknowledge the constructive attitude of the Government of Bosnia and Herzegovina.

For my delegation, the referral of cases to national jurisdictions is also fundamental for the successful conclusion of the Tribunals. We therefore deem it crucial that international tribunals continue their task of facilitating the strengthening of the capacities of national tribunals.

Even given the complex and highly detailed considerations that we have heard today, the Security Council must not lose sight of the principle objective of guaranteeing that justice is carried out with regard to the most serious crimes and atrocities against humankind committed in the conflicts in the former Yugoslavia and in Rwanda. At the same time, however, we should not overlook the fact that international tribunals face an ongoing challenge, namely, achieving

a balance between the rendering of justice, administrative efficiency, guaranteeing the fundamental rights of the accused, witnesses and victims, and completing their work as soon as possible. For this reason, the Security Council should strive to conclude negotiations on the residual mechanism in a manner that is satisfactory for all parties.

Finally, my delegation wishes to fully acknowledge the work accomplished by the Informal Working Group on Criminal Tribunals under the Austrian chairmanship, led by Ambassador Mayr-Harting, in finalizing work on the establishment of the residual mechanism.

The President: I shall now make a statement in my capacity as the representative of the United States.

The United States commends the Prosecutors and Presidents for their efforts to bring to justice those responsible for genocide, war crimes and crimes against humanity. Since their creation, the Tribunals have answered lawless violence with historic justice and, in myriad ways, produced an impact far beyond the confines of their courtrooms. Today, we take stock of what the Tribunals have accomplished over the past six months and examine the strategies that they are pursuing to bring their vital work to a successful completion.

The legacy of the Tribunals must be assured by the creation of a durable and appropriate institution that will outlast the Tribunals themselves and complete their functions. We applaud the work that the Tribunals have done to advance that goal thus far. We urge both Tribunals to strive to complete their work at the earliest possible date; yet, we are mindful of the importance of doing so with appropriate care, leading to a smooth and efficient drawdown.

We welcome the Tribunals' efforts to increase efficiency and believe that fairness and efficiency can, and should, go hand in hand. We therefore urge the Presidents and the judges, in their roles as managers of the courtrooms, to take any additional steps needed to ensure that the trials are both expeditious and fair. We continue to support initiatives to complete trials, where necessary, through the contributions of ad litem judges, extensions of terms and the redeployment of trial judges to the Appeals Chamber.

We must act urgently to ensure that individuals indicted by the Tribunals are brought to justice. The arrests of Ratko Mladić and Goran Hadžić are crucial to the achievement of justice in the Balkans. The United States is committed to doing all that is necessary to ensure that this happens. We welcome the Government of Serbia's recent efforts to apprehend and transfer indicted war criminals, and call on Serbia to continue to fulfil its obligations and to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and ensure that Mladić and Hadžić are arrested and transferred to The Hague. We also recognize Croatia's efforts to fulfil its obligations to the ICTY, particularly the actions of its task force in exploring new avenues in order to locate or account for missing military documents. We urge it to continue these efforts. For States of the former Yugoslavia, full cooperation with the ICTY is key to their progress towards Euro-Atlantic integration.

The United States reaffirms its commitment to see the architects of the genocide in Rwanda brought to justice. We renew our calls for the immediate arrest of Protais Mpiranya and Félicien Kabuga. We expect all States to fully cooperate with the Tribunal in its efforts to locate Mpiranya, Kabuga and other fugitives.

The ability of the International Criminal Tribunal for Rwanda (ICTR) to transfer cases to States when appropriate is an important, critical step towards meeting the Tribunal's completion strategy. The United States acknowledges Rwanda's desire to receive cases transferred from the ICTR. We also acknowledge the Government of Rwanda's judicial sector reform, enhanced judicial capacity and positive engagement with the Security Council on steps to facilitate such transfers.

The United States commends the Austrian Chair of the Working Group on Criminal Tribunals for his excellent work in shepherding the Group to a new era in international criminal justice. We would also like to thank the United Nations Office of Legal Affairs for its ongoing and tireless assistance in helping to craft the residual mechanism. I also thank the Presidents, Prosecutors, Registrars and staff of the Tribunals for their contribution to the fight against impunity and for promoting the cause of international justice.

I now resume my functions as President of the Council.

I give the floor to the representative of Croatia.

Mr. Vilović (Croatia): Allow me, at the outset, to congratulate you, Madame President, on your country's

assumption of the presidency of the Security Council for this month, as well as to express our confidence that, under your able guidance, the Council will successfully undertake its many duties and responsibilities and conclude another challenging year.

At the same time, let me extend my appreciation to Presidents Robinson and Byron, as well as to Prosecutors Brammertz and Jallow, for their detailed reports on the work of the Tribunals and on the progress and challenges in the implementation of the completion strategy.

The Tribunals' determined performance aimed at the steadfast prosecution of perpetrators of war crimes, crimes against humanity and genocide has not only served as a basis for an emerging culture of accountability but also as a staunch reminder that grave crimes, committed by whomever, will not go unpunished. Croatia recognizes the efforts of the Tribunals to comply with the strategy elaborated for the finalization of their groundbreaking work and for their transformation into residual mechanisms.

However, we are aware of the unprecedented challenges faced by the International Criminal Tribunal for the Former Yugoslavia (ICTY), as stated in Judge Robinson's report (see S/2010/588). We firmly believe that this widely desired and legitimate objective should not be pursued at the expense of the mandate with which the ICTY was established, nor compromise full respect for due process standards. In that context, let me particularly stress that the ICTY mandate could not be considered accomplished without bringing to justice the two remaining fugitives, Ratko Mladić and Goran Hadžić, indicted for the gravest atrocities in Europe since the Second World War, namely, the massacres in Srebrenica and Vukovar.

Croatia remains strongly committed to its unequivocal cooperation with the Tribunal. This commitment has been largely demonstrated by the prompt execution of all orders and other binding decisions of the Tribunal, as well as by full compliance with the assistance requests received from the Office of the Prosecutor. To date, Croatia has received and completely fulfilled 883 such requests.

In regard to one request in the *Gotovina et al.* case, which the Office of the Prosecutor considered to have been only partially fulfilled, Prime Minister Kosor established last fall a special task force in order to further intensify and broaden an ongoing administrative investigation, as well as to improve its quality and efficiency in line with the suggestions received from the Office of the Prosecutor.

My delegation welcomes the comments of Prosecutor Brammertz on the professionalism of the task force, as well as his recognition that the task force has begun to explore important new avenues in the investigation. My delegation equally appreciates the assessment of Prosecutor Brammertz, in which he stated that Croatia is generally responsive to requests by Office of the Prosecutor for assistance. These requests are answered adequately and access is provided to witnesses and evidence.

Regarding the Prosecutor's remark on possible inconsistencies revealed in the last three reports of the task force, my delegation would like to confirm the strong commitment of the competent Croatian authorities to continuing their work and further clarifying those issues, including by opening new avenues as suggested by the Office of the Prosecutor. At the same time, my delegation appreciates all the support for the activities of the task force extended today by the members of this body, which we take as an important additional acknowledgment of our efforts.

Over the reporting period, Croatian officials at the highest level remained engaged in direct dialogue with the Tribunal and the Prosecutor, while the Ministry of Justice and the Office of the State Prosecutor continued to nurture close and intense working relationships with the Office of the Prosecutor.

Prosecutor Brammertz visited Zagreb on 20 and 21 October 2010 and met with the President, the Prime Minister, members of the Council for Cooperation with International Criminal Courts — which includes the Prime Minister, the Minister of Justice, the Minister of Interior, the Minister for Foreign Affairs and the Minister of Defence — the State Prosecutor and members of the task force.

This reporting period was marked by the final decision of Trial Chamber I on this very last open issue. On 26 July, after extensive litigation lasting more than two years, during which time Croatia produced 16 reports, introduced a significant number of documents, performed a great number of investigative activities and brought criminal charges against 19 individuals — four of whom have already been convicted — Trial Chamber I decided to deny the prosecution motion.

By this decision, Trial Chamber I explicitly recognized the proactive cooperation of Croatia with the Tribunal and indicated that new information was received on an ongoing basis. By applying common sense in this delicate matter, Trial Chamber I not only "declined to order Croatia to produce documents due to uncertainties surrounding the whereabouts of the documents" (*S/2010/588, annex II, para. 71*), but also concluded that uncertainties regarding the creation of the documents, as well as uncertainties regarding their continued existence or accessibility to Croatia, had prevented Croatia from locating and delivering the documents requested.

The documented position of Croatia, as well as its proactive approach, obviously led Trial Chamber I to the opinion that it would be of no avail to issue further orders to Croatia when, after careful consideration of each and every document requested, serious doubts about the ability of Croatia to produce the aforementioned documents still prevailed.

In full respect of the decision of Trial Chamber I, Croatia is strongly determined to proceed with its investigation and continue to undertake all reasonable and feasible measures at its disposal in order to clarify this matter. Croatia is absolutely aware that the cooperation of States in the region remains crucial to the successful accomplishment of the ICTY mandate and the achievement of its completion strategy goals, and will do its share in this regard.

As the Tribunal is beginning to downsize, strengthening relationships between the Office of the Prosecutor and national prosecutorial authorities is becoming increasingly important. A considerable part of the Tribunal's legacy is aimed at strengthening the capacities of national jurisdictions to continue the fight against impunity through the appropriate adjudication of grave violations of international humanitarian law.

Croatia is determined to continue with domestic efforts to prosecute all war crimes committed on its territory since 1991, and in that context we deem it particularly important to further enhance our working relationship with the ICTY and to continuously strengthen cooperation between prosecutorial and judicial authorities in the region.

In conclusion, let me express our sincere gratitude to Ambassador Mayr-Harting of Austria and his team, who, while presiding over the Informal Working Group on International Tribunals, have made tireless efforts in setting up a residual mechanism to replace the Tribunals. It is our understanding that this work is now at its end, and we hope that the agreed solutions, in particular regarding the management of archives, the protection of witnesses and the serving of sentences, will help safeguard the Tribunal's legacy and ensure the successful fulfilment of its residual functions.

The President: I now give the floor to the representative of Serbia.

Mr. Vilović (Serbia): At the outset, allow me to express the satisfaction of the Republic of Serbia with all the efforts of the President and the Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY), Judge Patrick Robinson and Mr. Serge Brammertz, related to the cooperation of Serbia with the Tribunal, and with their thoroughly professional approach in submitting their reports to the Security Council.

At the same time, allow me to take this opportunity to pay my respects to the President and the Prosecutor of the International Criminal Tribunal for Rwanda, Judge Dennis Byron and Mr. Hassan B. Jallow.

As on previous occasions, the cooperation between Serbia and ICTY described in the reports of the President and the Prosecutor (see S/2010/588) is in line with the assessment by Serbia of the level of cooperation achieved so far. There are no outstanding requests for assistance in regard to the provision of documents to the Tribunal, while the requests pertaining to witnesses and access to the State archives are being processed on time and without difficulties.

In other words, during the reporting period, Serbia fully respected the recommendations of the Prosecutor to continue responding effectively and in a timely manner to the his Office's requests for assistance. The level of cooperation achieved in this area will undoubtedly continue in the coming period.

As far as cooperation relating to the arrest of the two remaining fugitives is concerned, it is evident that political will to resolve this problem exists in Serbia and has been expressed by the country's highest-ranking officials. We consider it very important that the Prosecutor states in his report that the prosecution maintained regular and close contact with the Serbian agencies in charge of locating and arresting the fugitives, and that this interaction had intensified in

recent months. This kind of interaction will certainly continue in the future. It is also significant that the Prosecutor has recognized Serbia's efforts to implement the recommendations presented in his previous report (see S/2010/270).

These facts, along with the unambiguous determination of Serbia to bring the two remaining fugitives to justice, as was the case with the 44 individuals it transferred to the Tribunal, give us reason to expect that the results awaited by both the Tribunal and Serbia will be achieved.

In addition, Serbia continues to give its full support to the implementation of the Tribunal's completion strategy, including issues related to the archives, as well as the establishment of the residual mechanism, which should have the power to prosecute the persons indicted by ICTY who are still at large. In that connection, Serbia reiterates its position submitted to the Security Council in October 2008 and March 2009, and it is ready to continue to actively participate in all future discussions on this matter.

In conclusion, I would like to emphasize that the goals of Serbia and of the Tribunal are identical. They include, on the one hand, maintenance of the level of cooperation reached in the area of the provision of documents and access to witnesses and the archives, and, on the other hand, the location, arrest and transfer of the two remaining fugitives to the Tribunal. The fulfilment of those goals will be of exceptional importance for the realization of international justice and the successful completion of the Tribunal's mandate, while certainly contributing to the further normalization of the situation and the improvement of relations between the States established on the territory of the former Yugoslavia.

The President: I now give the floor to the representative of Rwanda.

Mr. Gasana (Rwanda) (*spoke in French*): Allow me first of all to congratulate you, Madam President, on your country's assumption of the presidency of the Council for the month of December. I wish you every success in your task and assure you of my delegation's support during your presidency. I also thank you for this opportunity given me to speak in this debate. I also thank the President of the International Criminal Tribunal for Rwanda (ICTR) and the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as the Prosecutors of both Tribunals, for presenting their reports (see S/2010/574 and S/2010/588) and for the efforts that they continuously make to successfully complete their work. Allow me also to pay tribute to my colleague and dear friend Ambassador Mayr-Harting for the impeccable work done.

Since the establishment of the ICTR, the Government of the Republic of Rwanda has always given it the necessary cooperation to enable it to complete the mission entrusted to it by the Council for the well-being of the victims of genocide perpetrated against the Tutsis and for the good of humanity. During this past year, Rwanda has continued to facilitate access to witnesses of both the prosecution and the defence, including by supporting the National Witness Protection Service established at the Office of the Prosecutor in Kigali. My Government also continues to provide all necessary documents for the smooth conduct of the investigations and the holding of the trials.

While regretting the pace of the proceedings and the delay with regard to the time frame initially established, the Rwandan Government still supports the Tribunal's completion strategy, as set out in resolution 1503 (2003), and takes note of the its commitment to completing the first-instance trials by the end of 2011 and the appeal trials by the end of 2013. In that regard, we appreciate the efforts made by the Tribunal to reduce the time for the proceedings despite its staffing issues, and we encourage the Tribunal to continue in that direction in order to meet the aforementioned deadlines.

As the end of the work nears, and given that the Tribunal clearly will not be able to try all the people sought, Rwanda reiterates its request, made on many occasions, for a transfer of the pending cases to our country's jurisdiction. In that regard, we welcome the request of the Prosecutor of the ICTR of 4 November for the transfer of new cases to Rwanda, in addition to the 25 already handed over on 8 June. Our country will, of course, continue to cooperate with the Tribunal in order to remove any obstacle to the transfer of those files, as it has already done by carrying out many judicial, penal and prison reforms.

Need we recall that our request to transfer those files is based simply on the fact that the crimes tried by this Tribunal were committed on national territory against Rwandan citizens by their compatriots.

Rwandan justice, which has acquired a certain experience with genocide trials in over 16 years now, is thus the best placed to know about those matters, all the more so as it has the advantage of proximity to the witnesses and the scene of the crime. Lastly, the judicial proceedings conducted in Rwanda will also play a major didactic role in national reconciliation.

Today we welcome the life sentence of Lieutenant Ildephonse Nizeyimana, which we learned of some minutes ago. My Government welcomes the arrest of several genocide fugitives during this year and thanks the Governments of brotherly countries that have acted, namely, the Democratic Republic of the Congo and Uganda. Our gratitude also goes to the many Governments that have arrested and tried, on the basis of their national laws, the suspects of genocide present on their territory. Lastly, we express our appreciation to Senegal, which has just signed an agreement with the ICTR to transfer detainees.

Rwanda also welcomes the efforts made by the ICTR to find and arrest the 10 remaining fugitives, including one of the main architects of the genocide, the billionaire Félicien Kabuga. The Interahamwe militia, which he financed and armed, are still there in the Democratic Republic of the Congo and now, as the Council knows, make up the Forces démocratiques de libération du Rwanda.

However it is not up to the ICTR, but it has proved necessary to draw attention to the fact that that terrorist movement, which still rages in the Democratic Republic of the Congo and against which this Council has just renewed sanctions (resolution 1952 (2010)), has recently acquired new unexpected support, as the most recent report of the Group of Experts on the Democratic Republic of the Congo established pursuant to resolution 1533 (2004) noted in its paragraph 164 (S/2010/596). That support, which is from senior officers discharged from the Rwandan army, unfortunately enjoys the protection of certain countries, as is currently the case with Félicien Kabuga.

Rwanda therefore requests the Security Council to use its weight so that history does not repeat itself and so that individuals who cooperate with terrorist movements to destabilize the Great Lakes region with impunity, while enjoying the protection, even the complicity, of certain States, are arrested, given that what is behind that terrorist movement is none other than genocidal ideology.

Moreover, my Government's view on the transfer of the ICTR archives to Rwanda is well known. Our Government will not compete with anyone on that point. We simply recall that the ICTR archives are an integral part of our history and are therefore crucial to preservation of the memory of the genocide, the education of future generations and the prevention of genocide. My Government of course remains ready to make its contribution to the discussions under way on that matter within the United Nations.

Unfortunately, the denial and trivialization of the genocide are phenomena that tend to grow and be trivialized even in the community of defence lawyers in Arusha. Here, I am not talking about their pleadings, covered by professional immunity, but of their activism outside the courtrooms, in particular, in the international media and at public conferences.

The Government of Rwanda is therefore concerned about that everyday denial, which goes beyond the simple defence of the accused and which is not only likely to reopen the wounds of a people on the way to reconciliation, but especially is a crime punishable by law, like Holocaust denial in many countries. I therefore call on the Security Council and the ICTR to take the necessary measures to put an end to that situation. For our part, the Government will remain steadfast in ensuring that perpetrators of such crimes, be they foreigners or attorneys of the Court, will be brought to justice pursuant to Rwandan law.

In conclusion, the Government I represent calls on the ICTR to pursue its mission with determination, but also urges it to respect as much as possible its completion strategy. At the end of its mandate, the transfer to Rwanda of residual cases and archives would be the most appropriate option for justice, for the task of remembrance, for history and for the future of our generations.

The President: There are no further speakers inscribed on my list.

I take this opportunity, on behalf of the Council, to thank Judge Robinson, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for their briefings to the Council.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1 p.m.